

Service Date: September 19, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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In the Matter of the Application of	)	UTILITY DIVISION
CITIZENS TELECOMMUNICATIONS	)	
COMPANY OF MONTANA for Approval	)	DOCKET NO. D97.3.48
of an IntraLATA Toll Dialing Parity	)	
Implementation Plan.	)	ORDER NO. 5988a

**ORDER ON RECONSIDERATION**

INTRODUCTION AND BACKGROUND

1. Citizens Telecommunications Company of Montana (CTC-Montana) filed an application on March 24, 1997 for approval of its intraLATA toll dialing parity implementation plan. On June 2, 1997 CTC-Montana filed a motion with the Montana Public Service Commission (Commission) asking the Commission to adopt its Proposed Order so that CTC-Montana could implement the plan by August 8, 1997. The Proposed Order did not address certain issues that will be resolved pursuant to the Commission's rulemaking proceeding for intraLATA dialing parity. For example, CTC-Montana will not recover implementation costs until the issue is resolved in the rulemaking.

2. CTC-Montana was required by Federal Communications Commission (FCC) rule, 47 C.F.R. § 51.211(c), to implement intraLATA toll dialing parity by August 8, 1997, because it has a separate affiliated company also wholly owned by Citizens Utilities Company (Citizens) -- Citizens Telecommunications Company -- that provides interLATA toll service.

3. CTC-Montana asserted that adoption of its Proposed Order would allow it to meet its August 8 implementation date and preserve other parties' rights to fully debate dialing parity issues in the Commission's rulemaking proceeding. Based on CTC-Montana's assertions, the Commission issued a Notice of Commission Action, in which it concluded that CTC-Montana's request is appropriate and alerted interested parties of its intent to issue an order with regard to

the proposed dialing parity implementation plan as soon as practicable following receipt of comments. The Notice established a period for commenting on the Proposed Order until the close of business on June 20, 1997.

4. AT&T, the only commenter, recommended that an additional paragraph be included in the order requiring CTC-Montana to provide interexchange carriers a copy of the script its representatives will use when receiving inquiries pursuant to its notice, if requested. AT&T expressed its concern that the initial oral contact by a CTC-Montana representative in response to CTC-Montana's proposed notice to consumers might affect the future marketing efforts of interexchange carriers. AT&T suggested that the Commission include an additional paragraph in the final order requiring CTC-Montana to provide copies of its scripts to any interexchange carrier requesting a copy. The Final Order incorporated the added provision suggested by AT&T.

5. CTC-Montana filed a Motion for Reconsideration on July 14, 1997, asking the Commission to reconsider its decision and to issue an order on reconsideration deleting the requirement that it provide its customer service scripts to interexchange carriers.

#### COMMISSION DECISION

6. Due to the brief period of time for commenting on the Proposed Order in this Docket and CTC-Montana's need for an expedited decision in order to implement its dialing parity plan, the Commission allowed no time for CTC-Montana to respond to the comments filed by AT&T. CTC-Montana argues that this was inappropriate for the following reasons: (1) the scripts are proprietary and confidential to CTC-Montana, and their disclosure is unnecessary to ensure competitive neutrality; (2) the Commission's rulemaking proceeding on intraLATA equal access is the appropriate vehicle to decide whether scripts must be disclosed; (3) if disclosure is required, it should be made only to Commission staff and not to competitors who can unfairly benefit from access to CTC-Montana's customer service scripts; and (4) by not providing CTC-Montana the opportunity to respond to AT&T's comments, CTC-Montana was denied due process.

7. CTC-Montana persuasively argues that a decision on whether scripts must be provided to competitors is better left to the rulemaking proceeding on intraLATA presubscription, where all interested parties will have the opportunity to comment on this issue. The rulemaking will afford all LECs, IXC's and other parties the opportunity to make a complete presentation of their positions on this important issue and will provide the Commission with a better-developed record on which to justify the decision.

8. The Commission is mindful of its obligation under both state and federal law to ensure that competition in Montana develops without favoring particular competitors. As part of that responsibility, the Commission will review the scripts to ensure competitive neutrality if a request is made for such review. The scripts will not be considered proprietary without a proper showing by CTC-Montana that they should be considered as such. If the Commission determines they are competitively neutral, any further concerns that AT&T or others may have regarding information that is provided to customers by CTC-Montana's customer representatives can be addressed through the Commission's complaint process.

#### CONCLUSIONS OF LAW

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. CTC-Montana is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

3. The Commission properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

4. CTC-Montana's Motion for Reconsideration in this Docket was timely filed, according to ARM 38.2.4806(1). The Commission may abrogate, change, or modify the Final Order in this Docket, Order No. 5988, if it is of the opinion that the original order or decision is in any respect unjust or unwarranted, or should be changed. ARM 38.2.4806(3).

ORDER

THEREFORE, based upon the foregoing, to preserve all parties' rights to fully consider intraLATA dialing parity issues in the pending rulemaking, it is ORDERED:

1. CTC-Montana's Motion for Reconsideration is granted;
2. CTC-Montana shall not be required to provide a copy of scripts used by its representatives to any interexchange carrier requesting them; and
3. If an interexchange carrier requests the Commission to review scripts for competitive neutrality, CTC-Montana shall submit its customer scripts to the Commission.

Customer scripts will not be considered proprietary without an appropriate showing by CTC-Montana.

DONE AND DATED this 15th day of September, 1997, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chairman

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NANCY MCCAFFREE, Vice Chair

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BOB ANDERSON, Commissioner

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DANNY OBERG, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

NOTE:        You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.